

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RALPH SALIERNO,

Petitioner,

MEMORANDUM & ORDER
07-CV-2230 (JS)(ETB)

-against-

DALE ARTUS,

Respondent.

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APPEARANCES:

For Petitioner: Ralph Salierno, pro se
 Prisoner No. 04A2511
 Attica Correctional Facility
 Box 149
 Attica, NY 14011-0149

For Respondents: Michael J. Miller, Esq.
 Suffolk County District Attorney's Office
 Criminal Courts Building
 200 Center Drive
 Riverhead, NY 11901

SEYBERT, District Judge:

Pending before the Court is Ralph Salierno's Petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254. The Court referred this matter to Hon. E. Thomas Boyle, U.S.M.J., for a Report and Recommendation ("R&R"). On January 26, 2010, Judge Boyle issued his R&R, recommending that Mr. Salierno's Petition be denied. Mr. Salierno has not filed any objections to Judge Boyle's R&R.

This Court has reviewed the R&R and is satisfied that there is no clear error on the face of the record. Consequently, the Court ADOPTS it in its entirety. See Howithi

v. Travis, 06-CV-3162, 2010 U.S. Dist. LEXIS 40082 (S.D.N.Y. Apr. 22, 2010) (when a habeas petitioner fails to object to an R&R recommending that the petition be dismissed, the Court applies a clear error standard); Green v. Artus, 05-CV-3425, 2006 U.S. Dist. LEXIS 48772 (E.D.N.Y. July 18, 2006) (same). Consequently, Mr. Salierno's Petition is DENIED. Because Mr. Salierno has not made a substantial showing of the denial of a Constitutional right, a Certificate of Appealability is also DENIED. The Clerk of the Court is directed to mark this matter as CLOSED.

SO ORDERED

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: Central Islip, New York
JuLY 2, 2010